
APPENDIX B**Comments**

AirWaves, Inc. (AirWaves)
Alaskan Choice Television (Alaskan)
Apogee Companies, Inc. (Apogee)
Association of America's Public Television Stations (APTS)
Association of Federal Communications Consulting Engineers (AFCCE)
Association of Local Television Stations, Inc. (ALTS)
Association for Maximum Service Television, Inc. (MSTV), and National Association of Broadcasters (NAB)
Blade Communications, Inc. (Blade)
Board of Trustees, Coast Community College District, et al. (Coast)
Centex Television Limited Partnership (Centex)
Certain Channel 2-6 Licensees a/k/a Mt. Mansfield Television, Inc. (Channels 2-6)
Channel 12 of Beaumont, Inc. (Channel 12)
Channel 13 Television, Inc. (Channel 13)
Commercial Broadcasting Corp. (CBC)
Communications Technologies, Inc. (Com Tech)
Community Broadcasters Association (CBA)
Community Service Television (Com Service)
Connecticut Public Broadcasting, Inc. (Connecticut)
Cordillera Communications, Inc. (Cordillera)
Cosmos Broadcasting Corporation (Cosmos)
Council Tree Communications (Council)
Davis Television Clarksburg, et. al. (Davis)
Delmarva Broadcast Service General Partnership (Delmarva)
Dutchess Community College (Dutchess)
DuTreil, Lundin & Rackley, Inc. (DuTreil)
Educational Broadcasting Corporation (EBC)
Engles Communications, Inc. (Engles)
Entravision Holdings (Entravision)
Equity Broadcasting Corporation (Equity)
Eubanks, Derek Ray (Eubanks)
Far Eastern Telecasters (Far Eastern)
First United, Inc. (First United)
Fox Television Stations, Inc. a/k/a Fox Broadcasting Company (Fox)
G.I.G., Inc. (G.I.G.)
Gateway Communications, Inc. (Gateway)
Grupo Televisa S.A. (Grupo)
H&R Production Group (H&R)
HIC Broadcast, Inc. (HIC)
Home Shopping Club, LP (Home Shopping)
IBL (IBL)
Image Video Teleproductions, Inc. (Image)
International Broadcasting Network (IBN)
K Licensee, Inc. (K Licensee)
KB Prime Media (KB)
KM Communications, Inc. (KM)

KRHP Television (KRHP)
KSLS, Inc. (KSLS)
Kelly, Robert E. (Kelly)
Knies, Paul E. (Knies)
Lockwood Broadcasting, Inc. (Lockwood)
Maranatha Broadcasting Company, Inc. (Maranatha)
Marksteiner, Guenter (Marksteiner)
Martinez Group (Martinez)
McGreevy, Ron L. (McGreevy)
Media-Com Television, Inc. (Media-Com)
Miller, Larry A. and World Broadcasting, Inc. (Miller & World)
Mobile Video Tapes, Inc. (Mobile)
Mohave County Board of Supervisors (Mohave)
Montgomery Communications, Inc. (Montgomery)
NYN (NYN)
Nachman, Ivan C. (Nachman)
National Minority Television, Inc. (NMTV)
National Religious Broadcasters Association (NRB)
National Translator Association (NTA)
New York City, Policy Department (NYC)
Nicolas Communications Corporation (Nicolas)
North Rocky Mountain Television (NRMTV)
Oklahoma Educational Television Authority (Oklahoma)
Omni Broadcasting Company (Omni)
Paging Systems, Inc. a/k/a WLMF-LP (Paging)
Pappas Telecasting Companies (Pappas)
Paxson Communications Corporation (Paxson)
Pelican Broadcasting Company (Pelican)
Proclaim Broadcasting, Inc. (Proclaim)
Quorum of Utica License (Quorum)
Robert Broadcasting of Alabama (Robert)
Ruarch Associates Limited Liability Company a/k/a Stamler, Dr. Arthur D. (Ruarch)
Rule Communications (Rule)
Saga Broadcasting Corp. (Saga)
Sarkes Tarzian, Inc. (Sarkes)
Schrecongost, Larry L. (Schrecongost)
Schwartz, Woods & Miller (Schwartz)
Sherjan Broadcasting Company (Sherjan)
Silentco, Inc. (Silentco)
Simons, Mike (Simons)
Sinclair Broadcast Group, Inc. (Sinclair)
Skinner Broadcasting, Inc. (Skinner)
Society of Broadcast Engineers, Inc. (SBE)
Sonshine Family Television, Inc. (Sonshine)
St. Clair, B. W. (St. Clair)
TTI, Inc. (TTI)
TV 31 (TV 31)
TV Translator Licensees and LPTV Licensees (Translator-LPTV)
Telemundo's Group, Inc. (Telemundo)
Television Capital Corporation (TCC)

Three TV Licensees (Three TV)
Tiger Eye Broadcasting, Corp. (Tiger)
Turnpike Television (Turnpike)
Union Mission (Union)
University of California (UCA)
Univision Communications, Inc. (Univision)
U.S. Interactive, L.L.C., d/b/a AccelerNet (AccelerNet)
USA Broadcasting, Inc. (USAB)
Venture Technologies Group (Venture)
Vermillion, Richard and Ann (Vermillion)
Viking Communications, Inc. (Viking)
Vista Communications, Inc. (Vista)
WB Television Network (WB)
WLNY-TV, Inc. (WLNY)
WZBN-TV, Inc. (WZBN)
WatchTV, Inc. (WatchTV)
Week-TV License, Inc. (Week-TV)
WinStar Broadcasting Corporation (WinStar)

Reply Comments

Aiken, David R. (Aiken)
Alaskan Choice Television (Alaskan)
Association of Federal Communications Consulting Engineers (AFCCE)
Association of Maximum Service Television, Inc. (MSTV) & National Association of Broadcasters (NAB)
Baughn, David M. (Baughn)
Certain Channel 2-6 Licensees a.k.a. Mt. Mansfield Television, Inc. (Mansfield)
Communications Technologies, Inc. (Com Tech)
Community Broadcasters Association (CBA)
Cosmos Broadcasting Corporation (Cosmos)
Davis Television Clarksburg, et al. (Davis)
Descriptive Theatre Vision (Descriptive)
Equity Broadcasting Corporation (Equity)
Fox Television Stations, Inc. (Fox)
Good Life Broadcasting, Inc. (Good Life)
Grupo Televisa (Grupo)
HIC Broadcast, Inc. (HIC)
Home Shopping Club (Home Shopping)
Jackson, Martin (Jackson)
K Licensee, Inc. (K)
KM Broadcasting, Inc. (KM)
Mojave Broadcasting Company (Mojave)
National Translator Association (NTA)
Pacific Bay Broadcasting (Pacific)
Paxson Communications Corporation (Paxson)
Schrecongost, Larry L. (Schrecongost)
Sherjan Broadcasting Company (Sherjan)
Simons, Mike (Simons)
Sinclair Broadcast Group, Inc. (Sinclair)

Society of Broadcast Engineers (SBE)
Sonshine Family Television, Inc. (Sonshine)
St. Clair, B. W. (St. Clair)
TV-61 San Diego, Inc. (TV-61)
Telemundo Group, Inc. (Telemundo)
Three TV Licensees (Three TV)
Trumbly, Warren a/k/a Polar Broadcasting (Trumbly)
U.S. Interactive, d/b/a AccelerNet (AccelerNet)
Upper Cumberland Broadcast Council (Cumberland)
Vacation Channel, Inc. (Vacation)
Venture Technologies Group (Venture)
WB Television Network (WB)
WGBH Educational Foundation (WGBH)
WinStar Broadcasting Corp. (WinStar)
Wright, Joan and Kenneth (Wright)

APPENDIX C

FINAL REGULATORY FLEXIBILITY ANALYSIS

As required by the Regulatory Flexibility Act (RFA),²¹⁶ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking (Notice)*.²¹⁷ The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA. No comments were received in response to the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.²¹⁸

Need for, and Objectives of, the Adopted Rules

The Community Broadcasters Protection Act of 1999 (CBPA) directed the Commission, within 120 days after the date of enactment, to prescribe regulations establishing a Class A television license available to licensees of qualifying low-power television (LPTV) stations. The CBPA directs that Class A licensees be subject to the same license terms and renewal standards as full-power television licensees, and that Class A licensees be accorded primary status as a television broadcaster as long as the station continues to meet the requirements set forth in the statute for a qualifying low-power station. In addition to other matters, the CBPA sets out certain certification and application procedures for low-power television licensees seeking to obtain Class A status, prescribes the criteria low-power stations must meet to be eligible for a Class A license, and outlines the interference protection Class A applicants must provide to analog (or "NTSC"), digital ("DTV"), LPTV, and TV translator stations. The Commission is adopting the *Report and Order* to implement the CBPA.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

No comments were received in response to the IRFA.

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Apply

²¹⁶ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

²¹⁷ On January 13, 2000, the Commission adopted an *Order and Notice of Proposed Rule Making* seeking comment on a wide range of issues related to implementation of the CBPA. See *Order and Notice of Proposed Rule Making, In the Matter of Establishment of a Class A Television Service*, MM Docket No. 99-292, RM-92-60, FCC 00-16 (*rel.* Jan. 13, 2000) ("*Notice*"). The Commission also terminated an earlier proceeding relating to establishment of primary status for LPTV stations. See *Notice of Proposed Rule Making, In the Matter of Establishment of a Class A Television Service*, MM Docket No. 99-292, RM-92-60, FCC 99-257 (*rel.* Sept. 29, 1999) ("*September 22 Notice*"), responding to a petition for rule making filed by the Community Broadcasters Association ("CBA"). In light of passage of the Community Broadcasters Protection Act of 1999 (CBPA), which addresses many of the same issues raised in the September 22 Notice and the CBA petition, the Commission terminated the earlier proceeding in the January 13 Notice and initiated this new proceeding to implement the CBPA.

²¹⁸ See 5 U.S.C. § 604.

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules.²¹⁹ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act.²²⁰ A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.²²¹

Small TV Broadcast Stations. The SBA defines small television broadcasting stations as television broadcasting stations with \$10.5 million or less in annual receipts.²²²

As directed by the CBPA, the *Report and Order* establishes a Class A television license available to licensees of qualifying LPTV stations. According to the Commission staff review of the BIA Publications, Inc., Master Access Television Analyzer Database, virtually all LPTV broadcast stations have revenues of less than \$10.5 million. Currently, there are approximately 2,200 licensed LPTV stations.²²³ The Commission notes, however, that under SBA's definition, revenues of affiliates that are not LPTV stations should be aggregated with the LPTV station revenues in determining whether a concern is small. The Commission's estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from non-LPTV affiliated companies.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

As directed by the CBPA, the *Report and Order* requires LPTV stations seeking Class A status to file certifications of eligibility and applications to convert to Class A. In addition, as directed by the CBPA, Class A stations must comply with the operating requirements for full-service television broadcast stations, including the requirements for informational and educational children's programming and the limits on commercialization during children's programming, the political programming rules, and the public inspection file rule.²²⁴ These rules contain a number of recordkeeping requirements that will apply to Class A stations.

Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

Creating New Opportunities for Small Businesses. Pursuant to the CBPA and the Commission's implementing rules, certain qualifying low-power television ("LPTV") stations will be accorded Class A status. Class A licensees will have "primary" status as television broadcasters, thereby gaining a measure of protection against full-service television stations, even as those stations convert to digital format. The LPTV stations eligible for Class A status under the CBPA and the Commission's rules provide locally-originated programming, often to rural and certain urban communities that have either no or little access to local programming. LPTV stations are owned by a wide variety of licensees, including minorities and

²¹⁹ 5 U.S.C. § 603(b)(3).

²²⁰ 5 U.S.C. § 601(3)(1980).

²²¹ 5 U.S.C. § 632.

²²² 13 C.F.R. § 121.201 (SIC Code 4833).

²²³ *Public Notice*, "Broadcast Station Totals as [of] September 30, 1999" (*rel.* November 22, 1999).

²²⁴ *See Report and Order*, Section III.B.3, Operating Requirements.

women, and often provide “niche” programming to residents of specific ethnic, racial, and interest communities. The provisions adopted in the *Report and Order* will facilitate the acquisition of capital needed by these stations to allow them to continue to provide free, over-the-air programming, including locally-originated programming, to their communities. In addition, by improving the commercial viability of LPTV stations that provide valuable programming, the *Report and Order* is consistent with the Commission's fundamental goals of ensuring diversity and localism in television broadcasting.²²⁵

Minimizing Impact on Existing Small Business Broadcast Stations. The CBPA directs that Class A licensees be subject to the same license terms and renewal standards as full-power television licensees. However, the *Report and Order* adopts a number of rules designed to help LPTV stations seeking to convert to Class A status and exempts Class A licensees from Part 73 rules that clearly cannot apply, either due to technical differences in the operation of low-power and full-power stations, or for other reasons. For example, although the *Report and Order* applies the Main Studio rule for the first time to LPTV stations who qualify as Class A stations, requiring them to locate their main studios within the station's Grade B contour, as determined pursuant to the Commission's rules, it grandfathers their main studios at the site in use as of November 28, 1999. The *Report and Order* also modifies a number of other requirements applicable to full-service television broadcast stations, including: (1) requiring a minimum hours of operation of 18 hours per day, as required by the Statute; (2) grandfathering the use of LPTV broadcast transmitters and (3) permitting full-service NTSC stations to protect Class A stations on the basis of carrier frequency offsets.²²⁶

In response to comments, the Commission will not apply to Class A facilities the following provisions of Part 73: (1) the NTSC and DTV Tables of Allotments (sections 73.606 and 73.607); (2) mileage separations (section 73.610); and (3) minimum power and antenna height requirements (section 73.614). The *Report and Order* also exempts Class A facilities from the principal city coverage requirement of section 73.685(a) of the rules. As proposed in the *Notice*, the *Report and Order* maintains for now the current LPTV maximum power levels for Class A stations. In addition, the *Report and Order* does not adopt an annual certification or reporting requirement for Class A stations, but it does require licensees seeking to assign or transfer a Class A license to certify on the application for transfer or assignment of license that the station has been operated in compliance with the rules applicable to Class A stations. The *Report and Order* also requires that Class A renewal applications be subject to petitions to deny.²²⁷

Alternative eligibility criteria. The CBPA grants the Commission authority to establish alternative eligibility criteria for LPTV stations seeking Class A designation if “the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission.”²²⁸

Congress mandated three qualifications in the CBPA. For the 90 days prior to enactment of the CBPA, an applicant must have (1) broadcast a minimum of 18 hours per day, (2) broadcast an average of at least 3 hours per week of programming produced within the market area served by the station, and (3) been in compliance with Commission requirements of LPTV stations. The *Report and Order* allows deviation

²²⁵ See *Report and Order*, Section I., Introduction.

²²⁶ See *Report and Order*, Section III. B. 3., Operating Requirements.

²²⁷ *Id.*

²²⁸ 47 U.S.C. § 336(f)(2)(B).

from the strict statutory eligibility criteria only where such deviations are insignificant or when the Commission determines that there are compelling circumstances, such as a natural disaster or interference forcing a station off the air, and that in light of those compelling circumstances, the interest of equity mandates such a deviation.²²⁹

The *Report and Order* does not establish a different set of criteria for foreign language stations that do not meet the local programming criteria for a Class A license. Although the *Report and Order* recognizes the valuable service provided by foreign language stations, it concludes that congressional intent was to keep the class of stations granted this special status as a small class and that locally originated programming was an integral part of the specifics of the class.²³⁰ Finally, the *Report and Order* does not adopt separate eligibility criteria for translator stations, concluding that the statute limits eligibility to LPTV stations that produce local programming and can meet the operating rules applicable to full-service stations.²³¹

Report to Congress

The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. § 801(a)(1)(A). In addition, the Commission will send a copy of the *Report and Order*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order* and FRFA (or summaries thereof) will also be published in the Federal Register. *See* 5 U.S.C. § 604(b).

²²⁹ *See Report and Order*, III B 4, Alternative Eligibility Criteria.

²³⁰ *Id.*

²³¹ *Id.*

APPLICATION FOR CLASS A TELEVISION BROADCAST STATION CONSTRUCTION PERMIT OR LICENSE

GENERAL INSTRUCTIONS

A. This FCC Form is to be used in all cases by: (a) low power television (LPTV) licensees seeking to convert their licensed or authorized construction permit facilities to Class A status; (b) LPTV licensees filing simultaneously a displacement construction permit application; and (c) Class A licensees seeking a license to cover their authorized Class A construction permit facilities. The form consists of the following sections:

- I. General Information
- II. Legal Qualifications
- III. Engineering Data and Preparer's Certification (for preparer of engineering sections of the application)

B. This application form makes references to FCC rules. Applicants should have on hand and be familiar with current broadcast rules in Title 47 of the Code of Federal Regulations (C.F.R.):

- (1) Part 0 "Commission Organization"
- (2) Part 1 "Practice and Procedure"
- (3) Part 73 "Radio Broadcast Services"
- (4) Part 74 "Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services"

FCC Rules may be purchased from the Government Printing Office. Current prices may be obtained from the GPO Customer Service Desk at (202) 512-1803. For payment by credit card, call (202) 512-1800, M-F, 8 a.m. to 4 p.m. e.s.t.; facsimile orders may be placed by dialing (202) 518-2233, 24 hours a day. Payment by check may be made to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250-7954.

C. **Electronic Filing of Application Forms.** The Commission is currently developing electronic versions of various broadcast station application and reporting forms, such as this application form. As each application form and report goes online, the Commission will by Public Notice announce its availability and the procedures to be followed for accessing and filing the application form or report electronically via the Internet. For a six-month period following the issuance of the Public Notice, the subject application form or report can be filed with the Commission either electronically or in a paper format. Electronic filing will become mandatory, on a form-by-form basis, six months after each application form or report becomes available for filing electronically.

D. Applicants that prepare this application in paper form should file an original and two copies of this application and all exhibits. Applicants should follow the procedures in Part 0 and Part 73 of the Commission's Rules. Amendments to previously filed applications should be prepared, signed and filed in the same manner as the original application, and should contain the following information to identify the associated application:

- (1) Applicant's name.
- (2) Service.
- (3) Call letters.
- (4) Channel number.
- (5) Community of license.
- (6) File number of application being amended (if known).
- (7) Date of filing of application being amended (if file number is not known).

E. A copy of the completed application and all related documents shall be made available for inspection by the public in the applicant's public inspection file pursuant to 47 C.F.R. Section 73.3526 for commercial stations.

F. Applicants should provide all information requested by this application. No section may be omitted. If any portions of the application are not applicable, the applicant should so state. **Defective or incomplete applications will be returned without consideration.** Inadvertently accepted applications are also subject to dismissal.

G. In accordance with 47 C.F.R. Section 1.65, applicants have a continuing obligation to advise the Commission, through amendments, of any substantial and material changes in the information furnished in this application. This requirement continues until the FCC action on this application is no longer subject to reconsideration by the Commission or review by any court.

H. This application requires applicants to certify compliance with certain statutory and regulatory requirements. Detailed instructions provide additional information regarding Commission rules and policies. These materials are designed to track the standards and criteria which the Commission applies to determine compliance and to increase the reliability of applicant certifications. They are not intended to be a substitute for familiarity with the Communications Act and the Commission's regulations, policies, and precedent. While applicants are required to review all application instructions, they are not required to

complete or retain any documentation created or collected to complete the application.

- I. This application is presented primarily in a "Yes/No" certification format. However, it contains appropriate places for submitting explanations and exhibits where necessary or appropriate. Each certification constitutes a material representation. Applicants may only mark the "Yes" certification when they are certain that the response is correct. A "No" response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy. Thus, a "No" response to any of the certification items **will not** cause the immediate dismissal of the application provided that an appropriate exhibit is submitted.

- J. **The applicant, and the applicant's authorized engineering representative, if any, must sign the application.** Depending on the nature of the applicant, the application should be signed as follows: if a sole proprietorship, personally; if a partnership, by a general partner; if a corporation, by an officer; for an unincorporated association, by a member who is an officer; if a governmental entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel may sign the application for his or her client, but only in cases of the applicant's disability or absence from the United States. If the application is filed electronically, the signature will consist of the electronic equivalent of the typed name of the individual. See Report and Order in MM Docket No. 98-43, 13 FCC Rcd 23056, 23064 (1998).

INSTRUCTIONS FOR SECTION I: GENERAL INFORMATION

- A. **Item 1: Applicant Name.** The legal name of the applicant must be stated exactly in Item 1. If the applicant is a corporation, the applicant should list the exact corporate name; if a partnership, the name under which the partnership does business; if an unincorporated association, the name of an executive officer, his/her office, and the name of the association; and, if an individual applicant, the person's full legal name.

Applicants should use only those state abbreviations approved by the U.S. Postal Service.

Facility ID Number. Radio and TV Facility ID Numbers can be obtained at the FCC's Internet Website at www.fcc.gov/mmb/asd/seacall.html or by calling: Radio (202) 418-2730; TV (202) 418-1600. Further, the Facility ID Number is now included on all Radio and TV authorizations and postcards.

- B. **Item 2: Contact Representative.** If the applicant is

represented by a third party (for example, legal counsel), that person's name, firm or company, and telephone/electronic mail address may be specified in Item 2.

- C. **Item 3: Fees.** The Commission is statutorily required to collect charges for certain regulatory services to the public. Generally, applicants seeking a license to cover a facility authorized by and constructed pursuant to an outstanding construction permit are required to pay and submit a fee with the filing of the application. However, governmental entities, which include any possession, state, city, county, town, village, municipal corporation or similar political organization or subpart thereof controlled by publicly elected and/or duly appointed public officials exercising sovereign direction and control over their respective communities or programs, are exempt from the payment of this fee. Also exempted from this fee are licensees and permittees of noncommercial educational FM and full-service television broadcast stations seeking to construct new LPTV, TV translator or TV booster stations, or to make major changes in the authorized facilities of such stations, provided those stations will be operated or operate on a noncommercial educational basis. Applicants that earlier obtained either a fee refund because of a NTIA facilities grant for the station or a fee waiver because of demonstrated compliance with the eligibility and service requirements of 47 C.F.R. Section 73.621, are similarly exempt from payment of this fee. See 47 C.F.R. Section 1.1114.

When filing a fee-exempt application, an applicant must complete Item 3 and provide an explanation as appropriate.

Applications **NOT** subject to a fee may be hand-delivered or mailed to the FCC at its Washington, D.C. offices. See 47 C.F.R. Section 0.401(a). Fee-exempt applications should not be sent to the Mellon Bank Lockbox; so doing will result in a delay in processing the application.

The Commission's fee collection program utilizes a U.S. Treasury lockbox bank for maximum efficiency of collection and processing. Prior to the institution of electronic filing procedures, all FCC Form 302-CA applications requiring the remittance of a fee, or for which a waiver or deferral from the fee requirement is requested, should be mailed, along with FCC Form 159, to the Federal Communications Commission, Mass Media Services, P.O. Box 358165, Pittsburgh, Pennsylvania 15251-5165. Hand-delivered FCC Form 302-CA and 159 can be submitted to the Commission's lockbox bank, the Mellon Bank, in Pittsburgh, Pennsylvania. See 47 C.F.R. Section 0.401(b)(2).

In completing FCC Form 159, July 1997, edition, the applicant should specify on line 20A, payment code "MJT" and on line 22A, \$220.00, the fee required to initially

obtain Class A status for the LPTV station's licensed or authorized construction permit facilities or to obtain a Class A license covering subsequently authorized and constructed Class A station facilities.

Payment of any required fee must be made by check, bank draft, money order, or credit card. If payment is made by check, bank draft, or money order, the remittance must be denominated in U.S. dollars, drawn upon a U.S. institution, and made payable to the Federal Communications Commission. No postdated, altered, or third-party checks will be accepted. **DO NOT SEND CASH.** Additionally, checks dated six months or older will not be accepted.

Procedures for payment of application fees when applications are filed electronically will be announced by subsequent Public Notice. See General Instruction C above. Payment of application fees may also be made by Electronic Payment **prior to** the institution of electronic filing, provided that prior approval has been obtained from the Commission. Applicants interested in this option must first contact the Credit and Debt Management Center at (202) 418-1995 to make the necessary arrangements.

Applicants hand-delivering FCC Forms 302-CA may receive dated receipt copies by presenting copies of the applications to the acceptance clerk at the time of delivery. For mailed-in applications, a "return copy" of the application should be furnished and clearly marked as a "return copy." The applicant should attach this copy to a stamped, self-addressed envelope. Only one piece of paper per application will be stamped for receipt purposes.

INSTRUCTIONS FOR SECTION II: LEGAL INFORMATION

- A. **Item 1: Certification.** Each applicant is responsible for the information that the application instructions convey. As a key element in the Commission's streamlined licensing process, a certification that these materials have been reviewed and that each question response is based on the applicant's review is required.
- B. **Items 2 and 3: Statements of and Continued Eligibility for Class A Status.** On November 29, 1999, the Community Broadcasters Protection Act of 1999 was signed into law. That legislation provides that a low power television licensee may convert the secondary status of its station to the new Class A status, provided it can satisfy certain statutorily-established criteria. To become eligible for a Class A certificate of eligibility, the licensee's station must, during the 90-day period ending November 28, 1999, have: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by

the station or by a group of commonly-controlled low power television stations; and (3) been in compliance with the Commission's regulations applicable to the low power television service. In the event that a low power television licensee is not able to satisfy the foregoing criteria, the Commission is empowered by the legislation to issue a certificate of eligibility if it determines that the public interest, convenience and necessity would be served thereby. The legislation also provided that licensees intending to seek Class A designation file a certification of eligibility with the Commission no later than January 28, 2000. A Class A licensee shall continue to be accorded primary status as a television broadcaster as long as its station continues to meet the requirements of (1) and (2) above.

- C. **Item 4: Local Public Notice.** Applicants seeking Class A status for their licensed or authorized facilities are required to broadcast announcements informing the public of the filing of FCC Form 302-CA. The required notices must be broadcast both before and after the tendering of FCC Form 302-CA with the Commission and the application's simultaneous inclusion in the station's local public inspection file. The required timing and content of the local notice broadcast is set forth in 47 C.F.R. Section 73.3580(d)(4). Worksheet #1 attached to these instructions provides additional guidance. Proof of completion of publication need not be filed with the Commission.
- D. **Items 5 and 6: Character Issues/Adverse Findings.** Item 5 requires the applicant to certify that neither it nor any party to the application has had any interest in or connection with an application that was or is the subject of unresolved character issues. An applicant must disclose in response to Item 6 whether the applicant or any party to the application has been the subject of a final adverse finding with respect to certain relevant non-broadcast matters. The Commission's character policies and litigation reporting requirements for broadcast applicants focus on misconduct which violates the Communications Act or a Commission rule or policy and on certain specified non-FCC misconduct. In responding to Items 5 and 6, applicants should review the Commission's character qualifications policies, which are fully set forth in Character Qualifications, 102 FCC 2d 1179 (1985), reconsideration denied, 1 FCC Rcd 421 (1986), as modified, 5 FCC Rcd 3252 (1990) and 7 FCC Rcd 6564 (1992).

NOTE: As used in this question, the term "party to the application" includes any individual or entity whose ownership or positional interest in the applicant is attributable. An attributable interest is an ownership interest in or relation to an applicant or licensee which will confer on its holder that degree of influence or control over the applicant or licensee sufficient to implicate the Commission's multiple ownership rules. See Report and Order in MM Docket No. 83-46, 97 FCC 2d 997 (1984).

reconsideration granted in part, 58 RR 2d 604 (1985), further modified on reconsideration, 61 RR 2d 739 (1986).

Where the response to Item 5 is "No," the applicant must submit an exhibit that includes an identification of the party having had the interest, the call letters and location of the station or file number of the application or docket, and a description of the nature of the interest or connection, including relevant dates. The applicant should also fully explain why the unresolved character issue is not an impediment to a grant of this application.

In responding to Item 6, the applicant should consider any relevant adverse finding that occurred within the past ten years. Where that adverse finding was fully disclosed to the Commission in an application filed on behalf of this station or in another broadcast station application and the Commission, by specific ruling or by subsequent grant of the application, found the adverse finding not to be disqualifying, it need not be reported again and the applicant may respond "Yes" to this item. However, an adverse finding that has not been reported to the Commission and considered in connection with a prior application would require a "No" response.

Where the response to Item 6 is "No," the applicant must provide in an exhibit a full disclosure of the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), and the disposition of the litigation. Where the requisite information has been earlier disclosed in connection with another pending application, or as required by 47 U.S.C. Section 1.65(c), the applicant need only provide an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing. The applicant should also fully explain why the adverse finding is not an impediment to a grant of this application.

- E. **Item 7: Anti-Drug Abuse Act Certification.** This question requires the applicant to certify that neither it nor any party to the application is subject to denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.

Section 5301 of the Anti-Drug Abuse Act of 1988 provides federal and state court judges the discretion to deny federal benefits to individuals convicted of offenses consisting of the distribution or possession of controlled substances. Federal benefits within the scope of the statute include FCC authorizations. A "Yes" response to Item 9 constitutes a certification that neither the applicant nor any party to this application has been convicted of such an offense or, if it has, it is not ineligible to receive the authorization sought by this application because of Section 5301.

NOTE: With respect to this question, the term "party to the application" includes if the applicant is an individual, that individual; if the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5 percent or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; all members if a membership association; and if the applicant is a partnership, all general partners and all limited partners, including both insulated and non-insulated limited partners, holding a 5 percent or more interest in the partnership.

- F. **Item 8. Main Studio.** The main studio of a Class A station may be located at the site utilized by the station as of November 28, 1999, or at any site within the station's service contour, as defined in 47 C.F.R. Section 73.683. In order to qualify as a "main studio," the location must be equipped with appropriate equipment capable of originating programming at any time. Additionally, the studio must be staffed by **at least** one management-level employee **and** one staff-level employee at all times during regular business hours. See Jones, Eastern of the Outer Banks, Inc., 6 FCC Rcd 3615 (1991), clarified, 7 FCC Rcd 6800 (1992), aff'd, 10 FCC Rcd 3759 (1995). Further, each Class A broadcast station must at all times maintain a local or toll-free telephone line from its community of license to its main studio, wherever located.

- G. **Item 9. Public Inspection File.** A Class A licensee must maintain certain documents pertaining to its station in a file kept at the station's main studio. The file must be available for inspection by anyone during the station's regular business hours. The documents to be maintained generally include applications filed on behalf of the station, quarterly lists of the community issues significantly addressed by the station's programming during the preceding three months, and certain records regarding children's educational and informational programming and the amount of commercial matter aired during the station's broadcast of children's programming. A complete listing of the required documents and their mandatory retention periods is set forth in 47 C.F.R. Section 73.3526.

INSTRUCTIONS FOR SECTION III: ENGINEERING DATA AND PREPARER'S CERTIFICATION

- A. **Tech Box:** The applicant must specify the information requested in Items 1 through 6 of the Tech Box. The data should accurately reflect the specifications set forth in the LPTV station's license or authorized construction permit or in the Class A station's underlying construction permit.

The latitude and longitude coordinates for all points in the United States are based upon the 1927 North American Datum (NAD 27). The National Geodetic Survey is in the process of replacing NAD 27 with the more accurate 1983 North American Datum (NAD 83) and updating current

topographic maps with NAD 83 datum. In addition, coordinates determined by use of the satellite-based Global Positioning System already reflect the NAD 83 datum. To prevent intermixing of data using two different datums, however, the Commission announced that until further notice, applicants are to furnish coordinates based on the NAD 27 datum on all submissions and the Commission will continue to specify NAD 27 coordinates in its data bases and authorizations. In addition, applicants who have already filed applications with coordinates that reflect NAD 83 datum must provide NAD 27 coordinates to the appropriate Commission licensing bureau. See Public Notice, entitled "FCC Interim Procedures for the Specification of Geographic Coordinates," 3 FCC Rcd 1478 (1988).

B. Certifications.

Changed Circumstances. This question requires the applicant to certify that all information provided in the underlying LPTV or Class A construction permit application remains correct. If any circumstance has arisen which would cause any statement or representation contained in the construction permit application to be incorrect, the applicant should respond "No" and provide an appropriate explanatory exhibit.

Constructed Facility. The applicant must certify that the facility was constructed as authorized in the underlying construction permit. If there are any differences between the facilities constructed compared with those authorized in the construction permit, the applicant may need to seek approval for the change on FCC Form 301. See Section 73.3572.

Special Operating Conditions. The special operating conditions are located on the final pages of the construction permit. Attach exhibits, if required, to document compliance with the special operating conditions.

NOTE: SPECIAL OPERATING CONDITIONS MAY PROHIBIT AUTOMATIC PROGRAM TEST AUTHORITY. Automatic Program Test Authority: The permittee of a Class A TV may begin program tests upon filing FCC Form 302-CA with the FCC. See 47 C.F.R. Section 73.1620. **This provision does not apply if the underlying construction permit contains a special operating condition prohibiting automatic program test authority.**

Preparer's Certification. When someone other than the applicant has prepared the engineering section of FCC Form 302-CA, Section III requires that person to certify, to the best of his/her knowledge and belief, the veracity of the technical data supplied. The Section III preparer's certification in FCC Form 302-CA need not be completed if

the engineering portion of the application has been prepared by the applicant. In that event, the applicant's certification in Section II of FCC Form 302-CA will encompass both the legal and engineering sections of the application.

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information provided in the application to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of a FCC statute, regulation, rule or order, your application may be referred to the Federal, state or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC or (b) any employee of the FCC; or (c) the United States Government is a party to a proceeding before the body or has an interest in the proceeding. In addition, all information provided in this form will be available for public inspection.

If you owe a past due debt to the federal government, any information you provide may also be disclosed to the Department of Treasury Financial Management Service, other federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized.

If you do not provide the information requested on this form, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Your response is required to obtain the requested authorization.

We have estimated that each response to this collection of information will take 2 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-XXXX), Washington, DC 20554. We will also accept your comments via the Internet if you send them to jholey@fcc.gov. Please DO NOT SEND COMPLETED APPLICATIONS TO THIS ADDRESS. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number of if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-XXXX.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(c)(3), AND THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. Section 3507.

Worksheet #1

Local Public Notice Checklist

Applicants must certify their intention to comply with 47 C.F.R. Section 73.3580(d)(4) regarding publication of local notice of the subject application. This worksheet may be used in responding to Section II, Item 4 of FCC Form 302-CA.

1. Broadcast Notice

- a. Pre-filing: at least once daily on the 5th and 10th days in the two-week period preceding the filing of FCC Form 302-CA? ☐ Yes ☐ No
- b. Post-filing: at least once daily on the 1st and 5th days following the filing of FCC Form 302-CA? ☐ Yes ☐ No
- c. Timing: at least two announcements during "prime time" (6 p.m.-11 p.m. or 5 p.m. - 10 p.m. Central and Mountain Time) in both the pre-filing and post-filing periods? ☐ Yes ☐ No

2. Text of Notice

- a. Pre-filing: Did the announcement contain at least the following statements? ☐ Yes ☐ No

On (date), the Federal Communications Commission granted (Station's call letters) a certification of eligibility to apply for Class A television status. To become eligible for a Class A certificate of eligibility, a low power television licensee was required to certify that during the 90-day period ending November 28, 1999, the station: (1) broadcast a minimum of 18 hours per day; (2) broadcast an average of at least three hours per week of programming produced within the market area served by the station or by a group of commonly-owned low power television stations; and (3) had been in compliance with the Commission's regulations applicable to the low power television service. The Commission may also issue a certificate of eligibility to a licensee unable to satisfy the foregoing criteria, if it determines that the public interest, convenience and necessity would be served thereby.

(Station's call letters) intends to file an application (FCC Form 302-CA) for a Class A television license in the near future. When filed, a copy of this application will be available at (address of location of the station's public inspection file) for public inspection during our regular business hours. Individuals who wish to advise the FCC of facts related to that application and the station's eligibility for Class A status should file comments with the FCC prior to Commission action on that application.

- b. Post-filing: Will the announcements contain at least the following statements? ☐ Yes ☐ No

On (date of filing license application) (Station's call letters) filed an application, FCC Form 302-CA, for a Class A television license. Such stations are required to broadcast a minimum of 18 hours per day, and to average at least 3 hours of locally produced programming each week, and to comply with certain full-service television station operating requirements.

A copy of this application is available for public inspection during our regular business hours at (address of location of the station's public inspection file). Individuals who wish to advise the FCC of facts relating to this application and the station's eligibility for Class A status should file comments with the FCC prior to Commission action on this application.

FOR
FCC
USE
ONLY

FCC 302-CA
APPLICATION FOR CLASS A
TELEVISION BROADCAST STATION
CONSTRUCTION PERMIT OR LICENSE

FOR COMMISSION USE ONLY
FILE NO.

Section I - General Information

1. Legal Name of the Licensee		
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)		E-Mail Address (if available)
Call Sign	Facility Identifier	

2. Contact Representative (if other than licensee)	Firm or Company Name
Telephone Number (include area code)	E-Mail Address (if available)

3. If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114):

☐ Governmental Entity ☐ Noncommercial Educational Licensee ☐ Other _____

4. Community of License:	City	State
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5. **Purpose of Application:**

- ☐ Convert licensed LPTV facilities to Class A facilities (list LPTV file number): File No. _____
- ☐ Convert authorized LPTV construction permit facilities to Class A facilities (list LPTV construction permit file number): File No. _____
- ☐ Cover displacement application for construction permit for Class A facilities (list date of filing): Date _____
- ☐ License to cover construction permit for Class A facilities (list underlying construction permit file number): File No. _____
- ☐ Amend a pending Class A license application.

If an amendment, **submit as an Exhibit** a listing by Section and Question Number the portions of the pending application that are being revised.

Exhibit No.
1

NOTE: In addition to the information called for in this section, an explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided.

Section II - Legal

- 1. Certification.** Licensee certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Licensee further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets. ☐ Yes ☐ No
- 2. Statement of Eligibility.** Licensee certifies that it has filed a statement of eligibility on or before January 28, 2000, which has been found to be acceptable by the Commission. ☐ Yes ☐ No
- 3. Continued Eligibility.** Licensee certifies that its station does, and will continue to, broadcast: (a) a minimum of 18 hours per day; and (b) an average of at least 3 hours per week of programming each quarter produced within the market area served by the station, or the market area served by a group of commonly controlled low-power or Class A stations that carry common local programming produced within the market area served by such groups. ☐ Yes ☐ No

See Explanation
in Exhibit No.
2
- 4. Local Public Notice.** Licensee certifies that it will comply with the public notice requirements of 47 C.F.R. Section 73.3580. ☐ Yes ☐ No

See Explanation
in Exhibit No.
3
- 5. Character Issues.** Licensee certifies that neither licensee nor any party to the application has or has had any interest in, or connection with: ☐ Yes ☐ No

See Explanation
in Exhibit No.
4
- a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or
- b. any pending broadcast application in which character issues have been raised.
- 6. Adverse Findings.** Licensee certifies that, with respect to the licensee and any party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination. ☐ Yes ☐ No

See Explanation
in Exhibit No.
5
- 7. Anti-Drug Abuse Act Certification.** Licensee certifies that neither licensee or any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862. ☐ Yes ☐ No

8. **Main Studio.** Licensee certifies that it has constructed and maintains a main studio at a location in compliance with the requirements of 47 C.F.R. Section 73.1125. ☐ Yes ☐ No See Explanation in Exhibit No. 6
9. **Public Inspection File.** Licensee certifies that it maintains for inspection a public inspection file that includes the documentation required by 47 C.F.R. Section 73.3526. ☐ Yes ☐ No See Explanation in Exhibit No. 7
10. **Operating Requirements.** Licensee certifies that it complies with those station operating requirements set forth in subparts H and J of 47 C.F.R. Part 73 that are applicable to Class A stations. ☐ Yes ☐ No See Explanation in Exhibit No. 8

NOT FOR OFFICIAL USE

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing	Typed or Printed Title of Person Signing
Signature	Date

SECTION III - Engineering

TECHNICAL SPECIFICATIONS

Ensure that the specifications below are accurate. All items must be completed. The response "on file" is not acceptable.

NOTE: In addition to the information called for in this section, an explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided

TECH BOX

1. Channel: _____

2. Frequency Offset

☐

No offset

☐

Zero offset

☐

Plus offset

☐

Minus offset

3. Antenna Location Coordinates: (NAD 27)

____°
____°

____'
____'

____"
____"

☐

N

☐

E

☐

S Latitude

☐

W Longitude

NOT FOR OFFICIAL USE

4. Operating Constants:

Transmitter power output (after vestigial sideband filter, if used, and after multiplexer, if combined)		Multiplexer loss in dB, if separate	Input to transmission line
dBk	kW		dBk
Transmission line power loss	Antenna Input power	Maximum antenna power gain	Maximum effective radiated power
dB	dBk	dB	dBk kW

5. Antenna Data:

Manufacturer	Model
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6. Height of radiation center above mean sea level: _____ meters

CERTIFICATIONS

Part A: For LPTV licensees seeking to convert their licensed or authorized construction permit facilities to Class A status or to cover a displacement application for construction permit for Class A facilities.

1. **Interference.** The facility authorized in the license or construction permit or proposed in the construction permit application, complies with the following applicable interference protection rule sections.

Analog TV broadcast station protection. See 47 C.F.R. Section 73.6011.

☐ Yes ☐ No

See Explanation
in Exhibit No.
9

Digital TV station and DTV Table of Allotments protection. See 47 C.F.R. Section 73.6013.

☐ Yes ☐ No

See Explanation
in Exhibit No.
10

Low Power TV, TV translator, Class A, and Digital Class A station protection. See 47 C.F.R. Sections 73.6012 and 73.6014.

☐ Yes ☐ No

See Explanation
in Exhibit No.
11

Land mobile station protection. See 47 C.F.R. Section 73.6020.

☐ Yes ☐ No

See Explanation
in Exhibit No.
12

2. **Changed Circumstances.** Apart from changes already reported, no cause or circumstance has arisen since the grant of the underlying LPTV construction permit which would result in any statement or representation contained in the construction permit application to be now incorrect.

☐ Yes ☐ No

See Explanation
in Exhibit No.
13

Part B: For Class A licensees seeking a license to cover their authorized Class A construction permit facilities.

1. **Constructed Facility.** The facility was constructed as authorized in the underlying construction permit.

☐ Yes ☐ No

See Explanation
in Exhibit No.
14

2. **Special Operating Conditions.** The facility was constructed in compliance with all special operating conditions, terms, and obligations described in the construction permit.

☐ Yes ☐ No

See Explanation
in Exhibit No.
15

An exhibit may be required. Review the underlying construction permit.

Exhibit No.
16

3. **Changed Circumstances.** Apart from changes already reported, no cause or circumstance has arisen since the grant of the underlying Class A construction permit which would result in any statement or representation contained in the construction permit application to be now incorrect.

☐ Yes ☐ No

See Explanation
in Exhibit No.
17

Part C: PREPARER'S CERTIFICATION

I certify that I have prepared Section III (Engineering Data) on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

Name		Relationship to Applicant (e.g., Consulting Engineer)	
Signature		NOT FOR OFFICIAL USE	
Mailing Address			
City	State or Country (if foreign address)	ZIP Code	
Telephone Number (include area code)		E-Mail Address (if available)	

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001),
AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)),
AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).